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RUEHMN/AMEMBASSY MONTEVIDEO 0099
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C O N F I D E N T I A L SECTION 01 OF 03 PORT AU PRINCE 000088

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E.O. 12958: DECL: 12/07/2017

TAGS: [PGOV](#) [PREL](#) [HA](#)

SUBJECT: ELECTORAL COUNCIL DIRECTOR GENERAL SAYS HE IS
BEING UNDERMINED, HINTS HE MAY QUIT

REF: PORT AU PRINCE 0055

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Classified By: Ambassador Janet Sanderson. Reason: E.O. 12958 1.4 (b)
, (d)

Summary

1. (C) Provisional Electoral Council (CEP) Director General Jacques Bernard is worried over Executive branch interference in the affairs of the Council, about a revision of the CEP by-laws that would erode his authority, and over perceived threats to his personal security. He says that without adequate powers to run the election or adequate security, he will not be able to manage the upcoming Senate elections. Ambassador encouraged Bernard, as the most experienced election manager in Haiti, to stay the course, to work with President Preval, and to reach out to CEP councilors. End Summary.

Push to Share DG's Authority with Full CEP

2. (C) Ambassador called on Provisional Electoral Council Director General Jacques Bernard January 15 at his office. Bernard immediately announced that problems had arisen that could affect the credibility of the Senate elections. In the weeks after they took office December 12, CEP councilors had argued to President Preval that the CEP by-laws should be rewritten to give CEP councilors power to review or co-decide issues previously within the sole purview of the Director General. Preval had agreed. Bernard noted there had already been three meetings since January 11 bringing together the CEP councilors, himself, and the President and Prime Minister, at which the President had gone over the by-laws line by line and begun revising them. He had entrusted two legal experts in the office of the Prime Minister with finishing a revised draft.

3. (C) The revised by-laws draft Bernard received January 15, he argued, would require him to clear all significant

management decisions with the CEP President, or in some cases, with the entire CEP. Since the new councilors had zero election experience, Bernard argued, co-managing the election with them will prove impossibly cumbersome. Bernard recalled that rewriting the by-laws would violate a commitment President Preval had made to him personally when he took the job as DG, namely that his authority to manage the elections would remain as it had been during the 2006 elections. As an example of CEP councilors' interference, Bernard quoted their demand that he fire several foreign advisors whom he had recently hired. Submitting all DG personnel decisions to approval of the full CEP will make his position untenable, Bernard argued. Bernard said he will submit his edits to the latest by-laws draft to the councilors by the morning of January 16.

Executive Branch Interference

14. (C) Bernard went on to argue that President Preval's personal intervention in the by-laws issue is a case of inadmissible Executive interference in the affairs of the CEP, whose independence is guaranteed by the constitution. In the meetings with the President and Prime Minister, CEP councilors had declared their loyalty to the President, while exhibiting personal hostility toward him, Bernard, by criticizing his handling of previous elections. In the face of this uncertainty, Bernard had suspended his normal work five days ago pending resolution of these issues. At stake, he declared, was the credibility of the Senate elections. He will not accept a situation where his 'hands are tied' by new by-laws or where he is set up for failure. He will not associate his name with an election organized in a way that makes them not credible. He has gone as far as to tell the CEP councilors to look for a new DG. (Note: the obvious implication is that Bernard will resign if these issues are

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not resolved to his satisfaction. End note)

15. (C) Ambassador observed that the CEP councilors may feel threatened by Bernard's experience and expertise. She urged him to reach out to the CEP members, who should be made to understand that a successful election will reflect well on the entire CEP as well as the Director General. The CEP needs to be educated on the details of election management--Bernard and MINUSTAH should take that on. In any case, the Ambassador argued, Bernard should seek a way to work with the CEP, especially with CEP President Frantz-Gerard Verret. These Senate elections need Bernard's experience and management skills.

Security

16. (C) Bernard recalled that in the 2006 presidential, legislative and local elections, he had enjoyed security protection from the Haitian National Police and UN Police. Currently, he does not. However, he perceives a security threat from one CEP councilor. He has observed Rodol Pierre, the councilor nominated by 'popular organizations' (i.e., grassroots groups), distributing cash to tough-looking youths directly across the street from the CEP's office. The Ambassador promised to raise the security issue with SRSG Annabi. (Note: Rodol Pierre is the one CEP councilor with past ties to the pro-Aristide party Fanmis Lavalas. MINUSTAH's Electoral Affairs Section agrees Pierre may be a problem and that we have to keep an eye on him. End note.)

Election Law

17. (SBU) Bernard brought up the urgency of passing a new election law to succeed the 2005 decree issued by the Interim Government. He has submitted a draft election law on December 26 to President Preval. Since then, two other

drafts have surfaced: One from the CEP and one from the office of the President. Bernard lamented that President Preval and the CEP appear to have no sense of urgency regarding the electoral law, the passage of which by parliament is required so that the President can set an election date and move the process forward. Ambassador replied that there was a strong sense of urgency in Washington that the Senate elections take place as quickly as possible.

Comment

18. (C) Turf struggles between the experienced Director General and the novice CEP councilors were inevitable. Ambassador's reftel appeal to CEP councilors to set a good working relationship among themselves and with the DG may have fallen on deaf ears. Bernard has the indispensable experience and the know-how needed to make the Senate elections happen. The councilors feel that if all substantive decisions lie with the DG, they will have nothing to do until election day. In the 2006 elections, that was substantially the case, though they still fulfilled their most important role as the final tribunal for election disputes after the actual polling. Bernard is correct that divided authority will gum up election administration, and that the President's interference is unwarranted. Yet we sense that councilors resent what they see as his highhanded manner. We hear that some in President Preval's office share that perception. Bernard can be prickly, easily offended, and more than once in the in the past has threatened to throw in the towel. Hence Ambassador's counsel to Bernard to reach out to the CEP and establish mutual confidence, based on the fact that a successful election is in everybody's interest. Meanwhile, President Preval continues his unhelpful meddling in details that should be left to experts with a demonstrated track record in managing elections.

19. (C) Comment continued: subsequent to drafting of this

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message, Bernard informed Ambassador January 17 that the revised CEP by-laws had been ratified, in a form that requires him to clear with the CEP all personnel and spending decisions.

SANDERSON